

REMARKS

In connection with the filing of a request for continued examination (“RCE”), the above amended claims and following remarks are submitted in response to the Final Office Action dated April 9, 2008. Claims 1 and 3-5 are amended. Accordingly, claims 1-6 and 9 are pending in the application.

I. Claims Rejected Under 35 U.S.C. § 112

Claims 1-6 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to the § 112 rejection of claim 1, 3, 4, 5 and 9, because these rejections are related to indefiniteness issues with the claim language, these claims have been amended to further clarify the claim language and overcome the rejections as discussed below.

With respect to claim 1, Applicants have amended the elements of “the knee (21) of a person” to state “a knee (21) of a person” and “a friction-supporting function for a knee and/or lower leg of the person” to state “a friction-supporting function for the knee and/or a lower leg of the person” to correct antecedent basis issues related to the element of the “knee” in claim 1.

In the Final Office Action, the Examiner has asserted that the elements of “the side plates (7, 8) extend upwards, advantageously above a knee (21) of a person” as recited in claim 1 are indefinite because these elements would depend on the person using the device. However, Applicants respectfully submit that the Examiner has confused indefiniteness of the claim with breadth of the claimed elements. As provided under MPEP § 2173.04, if the scope of the subject matter embraced by the claim is clear, and if the applicants have not otherwise indicated that they intend the invention to be of a scope different from that defined in the claim, then the claim complies with 35 U.S.C. § 112, second paragraph. For example, as disclosed on page 10, second paragraph, and Fig. 1 of the Specification, “[t]he height of the side plates 7, 8 . . . is selected so that its upper edge extends above the knees 21 of the person using the device 15, when he/she is using the device in the proper manner (figure 1).” Therefore, because the elements in claim 1 are clearly consistent with the disclosure in the Specification, Applicants respectfully submit that the

above cited elements are not indefinite under § 112, second paragraph as alleged by the Examiner.

With respect to claim 3, the elements of “the thickened plate parts (7a, 8a)” have been amended to state “thickened plate parts (7a, 8a)” to correct the antecedent basis issue related to these elements.

With respect to claim 4, the elements of “ensuring perfect function of the device practically at a distance (m) from ground level (t) in the operating position of the device that makes function possible, advantageously at the same level” have been amended to state “ensuring operation of the device at a distance (m) from ground level (t) in an operating position of the device that makes the operation of the device possible, advantageously at the distance (m) from ground level (t).” The Examiner has asserted that the elements of “ensuring perfect function of the device practically at a distance (m)” are unclear. Therefore, Applicants have amended these elements to state “ensuring operation of the device at a distance (m)” to clarify the claim language. Further, the Examiner has asserted that the elements of “the operating position of the device that makes function possible” are unclear. Applicants have amended these elements to state “an operating position of the device that makes the operation of the device possible” to clarify the claim language. Next, the Examiner rejected the elements of “the same level” as being indefinite because it is unclear what the “same level” is referring to which particular elements. Applicants have amended these elements to state “the distance (m) from ground level (t).” As disclosed on page 10, lines 4-19 of the Specification, the foot plates (9,10) are positioned at a maximum distance to ensure operation of the device at a distance (m) from ground level (t). Therefore, claim 4 has been amended to reflect this portion of the Specification.

With respect to claim 5, the elements of “the curved, convex, as seen from the outside, connection rib (14)” have been amended to state “a curved, convex, as seen from the outside, connection rib (14)” to correct the antecedent basis issued related to these elements.

With respect to claim 9, again, the Examiner has asserted that the elements of “at the height of the shins of the person using the device (15) there is a supporting plate (12) fixed to each of the side plates (7, 8)” are indefinite because these elements would depend on the person using the device. However, as provided under MPEP § 2173.04, if the scope of the subject

matter embraced by the claim is clear, and if the applicants have not otherwise indicated that they intend the invention to be of a scope different from that defined in the claim, then the claim complies with 35 U.S.C. § 112, second paragraph. For example, as disclosed on page 11, second and third paragraphs of the Specification, “[a]s the composite action between the foot of the person using the device 15 eccentrically loading the device and the wheel 1 is produced by the friction force occurring between the one of the side plates 7, 8 and the shin as a result of the horizontal reaction force of the torque created by the eccentric load force during the swapped (or one sided) supporting-propelling cycles,” and “[t]he same thing can also be said of the supporting plates 12 positioned parallel to the geometric axis of rotation, to which the shin of the supporting foot can be pushed up against during motion.” In addition, Fig. 2 of the Specification illustrates the disclosed relationship between the side plates and the supporting plate based on the above cited sections of the Specification. Thus, Applicants respectfully submit that the cited elements are not indefinite under § 112, second paragraph because the scope of the claim language is clear in light of the Specification.

Thus, in view of the above the amendments, Applicants respectfully submit that claims 1, 3, 4, 5 and 9 are now compliant under 35 U.S.C. § 112, second paragraph. Moreover, claims 2 and 6 are also compliant under 35 U.S.C. § 112, second paragraph, because these claims were rejected solely because of their dependencies on claim 1. Accordingly, reconsideration and withdrawal of the rejection of claims 1-6 and 9 are respectfully requested.

II. Claims Rejected Under 35 U.S.C. § 102

Claims 1-4 and 6 stand rejected under § 102(b) as being anticipated by U.S. Patent No. 2,971,773 issued to McKissick (hereinafter “McKissick”). To establish an anticipation rejection the Examiner must show that the cited reference teaches each element of a claim.

In the following discussion, Applicants submit that McKissick fails to teach each element of claim 1. First, according to the McKissick, the monocycle must have a yoke (i.e., lower end of stick 12 and fork legs 22 in Fig. 2), but claim 1 does not require any yoke. In other words, McKissick would not function if the yoke was removed because, while riding the monocycle, if the user does not hold onto the handles of the monocycle that is attached to the yoke then

stability would be lost in all directions. As a result, McKissick is not functional without the yoke that is not required in claim 1.

Further, McKissick fails to teach the elements of “foot plates (9, 10) extending outwards under the level of said axle (3) by said wheel (1) having two side plates (7, 8) fixed to the axle (3) of the wheel (1), and the foot plates (9, 10) rigidly fixed to a lower end range of the side plates (7, 8), the lower end range of the side plates being formed so that *the side plates (7, 8) extend upwards, advantageously above a knee (21) of a person standing on one or both of the foot plates (9, 10) and so as to provide a friction-supporting function for the knee and/or a lower leg of the person,*” (emphasis added) as recited in claim 1. Although McKissick has side plates, these side plates do not reach above the rider’s knees, as it is disclosed in McKissick and shown Fig. 4. See McKissick, column 2, line 61 to column 3, line 4. Thus, the alleged side plates in McKissick and the sides plates recited in claim 1 *do not share any similarity either in location, geometry or in functionality*. As disclosed in the Specification, the side plates recited in claim 1 are used as support for the inner side of the rider’s knee, and when the rider stands on the device with only one foot, the side plates serve to counter react against the momentum created by the unsymmetrical load. See e.g., Specification, page 11, second paragraph. Since McKissick does not have a supportive side plate at the height of the user’s knee, the user must hold onto the handles of the McKissick’s monocycle when the user is standing on monocycle with one foot only, otherwise the spinning wheel would directly press against the user’s inner leg and cause potential injury to the user.

According to McKissick’s specification and drawings, the foot plates of the monocle are not only below but also approximately 3 inches forward from the wheel’s axle. As a result, if the user applies his weight (i.e., stands) on the foot plates of McKissick, the user will generate momentum around the axle as the vector of gravity does not meet the axle. On the other hand, as disclosed in the figures of the Specification, the foot plate is exactly below the axle. If the user stands on the foot plate of the present invention, momentum is not generated on the axle as the vector of gravity goes through the axle. With reference to the discussion above of McKissick’s yoke, this makes it clear that if the user does not hold onto the yoke of McKissick, then momentum generated by the vector of gravity will twist the monocycle completely forward and resulting in the user losing balance and falling forward.

Further, McKissick's drawings and specification show that the vertical distance between the axle and the foot plates is only approximately 3 inches and the distance between the ground and the foot plates is very significant. On the other hand, the present invention's drawings, specification and claims make it clear that the foot plates are as close to the ground as possible with respect to efficient ground clearance. Therefore, with reference to the above discussion of McKissick's yoke, it is clear that on McKissick's monocycle, the user gains forwards and backwards balance by pulling and pushing on the yoke as the essential tool of balancing. In contrast, as disclosed in the Specification and figures of the present invention, the user gains balance in the same way as a pendulum does.

Therefore, in view of at least the foregoing reasons, McKissick fails to teach the elements of "foot plates (9, 10) extending outwards under the level of said axle (3) by said wheel (1) having two side plates (7, 8) fixed to the axle (3) of the wheel (1), and the foot plates (9, 10) rigidly fixed to a lower end range of the side plates (7, 8), the lower end range of the side plates being formed so that *the side plates (7, 8) extend upwards, advantageously above a knee (21) of a person standing on one or both of the foot plates (9, 10) and so as to provide a friction-supporting function for the knee and/or a lower leg of the person*" (emphasis added) as recited in claim 1. Accordingly, reconsideration and withdrawal of the rejection of claim 1 are respectfully requested.

With respect to claims 2-4 and 6, each of these claims depends on claim 1 and incorporates the limitations thereof. Thus, for at least the reasons discussed in connection with claim 1, McKissick fails to teach each element of claims 2-4 and 6. Accordingly, reconsideration and withdrawal of the rejection of claims 2-4 and 6 are respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

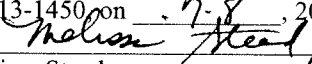
Dated: 7/7, 2008

1279 Oakmead Parkway
Sunnyvale, CA 94085-4040
(310) 207-3800


Eric S. Hyman Reg. No. 30,139

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Melissa Stead 7-8, 2008